

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

In re:		Chapter 7
SIZMEK INC., et al.		Bankr. Case No. 19-10971 (DSJ)
		(Jointly Administered)
	Debtors,	
10FN, INC.,		
	Plaintiff,	
	-against-	Case No. 1:21-cv-05996(VEC)
CERBERUS BUSINESS FINANCE, LLC, PEPI CAPITAL, L.P., KEN SAUNDERS, ANDREW BRONSTEIN, SASCHA WITTLER, and MARK GREETHER,		Oral Argument Requested
	Defendants.	

**PLEASE TAKE NOTICE** that, upon the accompanying Memorandum of Law, the Declaration of Ken Saunders, and upon all prior proceedings, pleadings, and filings in this action, Defendant Ken Saunders will move the United States District Court for the Southern District of New York, before the Honorable Valeria E. Caproni, for an Order, pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure, dismissing Counts III and IV of Plaintiff's *First Amended Complaint*, dated February 18, 2022, as against Defendant Ken Saunders, and for such other and further relief that the Court may deem just and proper.

**PLEASE TAKE FURTHER NOTICE** that any responsive papers to this Motion to Dismiss and its accompanying materials shall be done in accordance with that certain joint

scheduling letter motion submitted by counsel for all of the above-captioned litigants [ECF No.58], dated March 22, 2022, approved by the Court by order [ECF No. 59], dated March 23, 2022.

**PLEASE TAKE FURTHER NOTICE** that oral argument has been requested by Defendant Saunders and the Court may schedule a hearing in the event it determines it is necessary.

Dated: New York, New York  
April 7, 2022

**MORRISON COHEN LLP**

By: /s/ Heath D. Rosenblat  
Heath D. Rosenblat, Esq.  
909 Third Avenue  
New York, New York 10022  
Telephone: (212) 735-8600  
Facsimile: (917) 522-3157  
E-mails: hrosenblat@morrisoncohen.com

*Counsel for Defendant Ken Saunders*